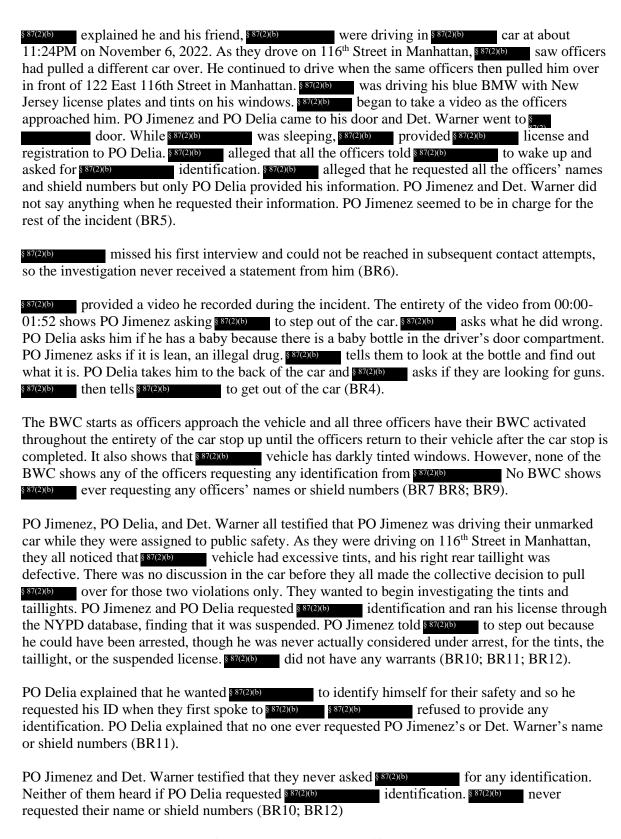
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	П	Force	V	Discou	ırt. [U.S.
Lianne May		Squad #08	202207555	☑	Abuse		O.L.	[☐ Injury
Incident Date(s)		Location of Incident:	•		18 N	Mo. SO	OL		Precinct:
Sunday, 11/06/2022 11:24 PM, Sunday, 11/06/2022 11:52 PM		Outside of 122 East 116th Street; 25 Precinct Stationhouse			5/6/2024			25	
Date/Time CV Reported		CV Reported At:	How CV Reported	ı:	Date/Tim	ne Rece	eived at (CCRI	3
Mon, 11/07/2022 12:30 AM		Precinct	In-person		Mon, 11/	07/202	22 11:49	AM	
Complainant/Victim	Type	Home Addre	ess						_
Subject Officer(s)	Shield	TaxID	Command						
DTS Maximilian Warner	00558	951421	PBMN SU PST						
2. PO Michael Delia	18222	963953	PBMN SU PST						
3. PO Debbie Jimenez	00522	959954	PBMN SU PST						
4. PO Kristen Lopez	03108	954787	125 ST TF						
Officer(s)	Allegation	on			Inv	estiga	tor Re	comi	nendation
A . PO Debbie Jimenez	which § 8		wei	re	le in				
B . PO Michael Delia	Abuse: F which	ts outside of 122 East 11 Police Officer Michael D (2)(0) and (8,87(2)(0) ts outside of 122 East 11	Delia stopped the vel	nicle re					
C . DTS Maximilian Warner	Abuse: I which §8	Detective Maximilian W	arner stopped the ve	ehicle re	e in				
D . PO Michael Delia	_	Police Officer Michael D outside of 122 East 11	elia questioned § 87(2)(b)					
E . DTS Maximilian Warner	Abuse: I	Detective Maximilian W	arner questioned § 87	(2)(b)					
F . PO Debbie Jimenez	Abuse: F	Police Officer Debbie Jir	nenez questioned						
G . PO Debbie Jimenez	Abuse: F name to Manhatta		menez refused to pro f 122 East 116th St						
H . PO Debbie Jimenez	shield nu	Police Officer Debbie Jir Imber to ^{§ \$7(2)(b)} Manhattan	nenez refused to pro outside of 122 East						
I . DTS Maximilian Warner	Abuse: I name to Manhatta		arner refused to pro f 122 East 116th Str						
J . DTS Maximilian Warner	shield nu	Detective Maximilian W Imber to ^{§ §7(2)(b)} Manhattan	arner refused to pro outside of 122 East						

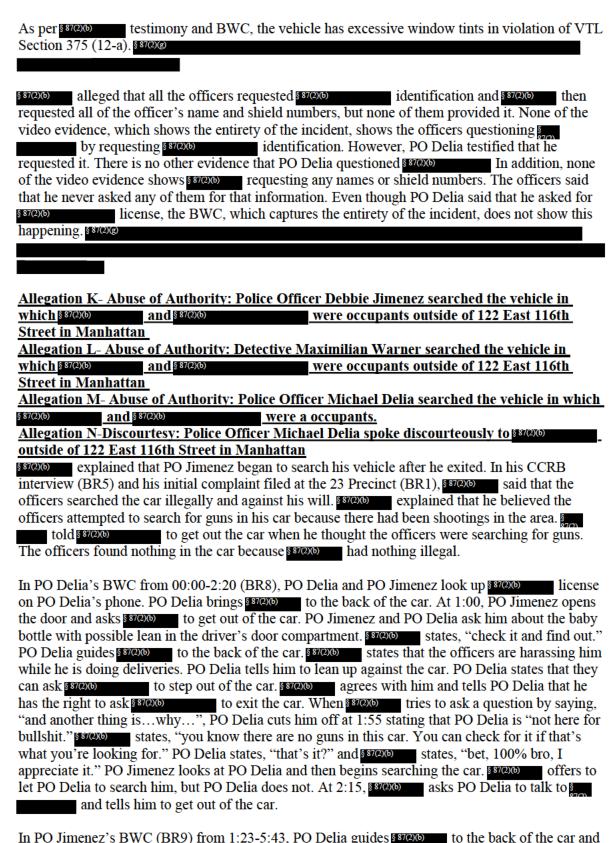
Officer(s)	Allegation	Investigator Recommendation
K . PO Debbie Jimenez	Abuse: Police Officer Debbie Jimenez searched the vehicle in which \$87(2)(b) and \$87(2)(b) were occupants outside of 122 East 116th Street in Manhattan	
L . DTS Maximilian Warner	Abuse: Detective Maximilian Warner searched the vehicle in which \$87(2)(b) and \$87(2)(b) were occupants outside of 122 East 116th Street in Manhattan	
M . PO Michael Delia	Abuse: Police Officer Michael Delia searched the vehicle in which \$87(2)(b) and \$87(2)(b) were an occupants.	
N . PO Michael Delia	Discourtesy: Police Officer Michael Delia spoke discourteously to \$87(2)(b) outside of 122 East 116th Street in Manhattan	
O . PO Debbie Jimenez	Abuse: Police Officer Debbie Jimenez failed to provide with a business card outside of 122 East 116th Street in Manhattan	
P . DTS Maximilian Warner	Abuse: Detective Maximilian Warner failed to provide with a business card outside of 122 East 116th Street in Manhattan	
Q . PO Michael Delia	Abuse: Police Officer Michael Delia failed to provide strong with a business card outside of 122 East 116th Street in Manhattan	
R . PO Debbie Jimenez	Abuse: Police Officer Debbie Jimenez failed to provide with a business card outside of 122 East 116th Street in Manhattan	
S . DTS Maximilian Warner	Abuse: Detective Maximilian Warner failed to provide with a business card outside of 122 East 116th Street in Manhattan	
T . PO Michael Delia	Abuse: Police Officer Michael Delia failed to provide with a business card outside of 122 East 116th Street in Manhattan	
U . PO Kristen Lopez	Abuse: At the 025 PCT Stationhouse, Police Officer Kristen Lopez did not process \$87(2)(6) complaint regarding officers.	

<u>Case Summary</u> filed the following complaint with officers at the 23 Precinct Stationhouse on

November 7, 2022. Those officers then submitted the complaint to the NYPD Internal Affairs Bureau (BR1). s 87(2)(b) and his friend, s 87(2)(b) were driving in s 87(2)(b) car on November 6, 2022. Detective Maximilian Warner, Police Officer Michael Delia, and Police Officer Debbie Jimenez, all of Patrol Borough Manhattan North, noticed a broken taillight and illegal tints on car. They stopped \$87(2)(b) vehicle in front of 122 East 116th Street in Manhattan at 11:24PM (Allegations A-C: Abuse of Authority, \$87(2)(g) ■ The officers approached the vehicle and [87(2)(6)] alleged that PO Delia and then Det. Warner and PO Jimenez identification (Allegations D-F Abuse of Authority, 887(2)(g) alleged that PO Jimenez and Det. Warner did not provide their names and shield numbers when requested (Allegations G-J: Abuse of Authority, \$87(2)(9) When \$87(2)(6) got out of the car, he told PO Delia that they could look for guns. PO Jimenez, Det. Warner, and PO Delia then searched the car (Allegations K-M: Abuse of Authority, \$87(2)(g) PO Delia told he was not there for "bullshit" (Allegation N: Discourtesy, \$87(2)(g) None of the officers provided Right to Know Act cards to \$87(2)(b) and \$87(2)(b) (Allegations O-T: Abuse of Authority, \$87(2)(g) The officers left without issuing any summonses or arrests identification with them. § 87(2)(b) then drove to the 25 Precinct and alleged that Police Officer Kristen Lopez of the 25 Precinct did not file a complaint for him against the officers as he requested (Allegation U: Abuse of Authority, §87(2)(g) The investigation received three body-worn camera videos (BR2) and stationhouse footage (BR3). also provided video that he recorded during the incident (BR4). **Findings and Recommendations** Allegation A- Abuse of Authority: Police Officer Debbie Jimenez stopped the vehicle in which were occupants outside of 122 East 116th Street in and § 87(2)(b) Manhattan Allegation B-Abuse of Authority: Police Officer Michael Delia stopped the vehicle in which were occupants outside of 122 East 116th Street in § 87(2)(b) and § 87(2)(b) Manhattan Allegation C-Abuse of Authority: Detective Maximilian Warner stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants outside of 122 East 116th Street in Manhattan Allegation D- Abuse of Authority: Police Officer Michael Delia questioned [887(2)6) outside of 122 East 116th Street in Manhattan Allegation E-Abuse of Authority: Detective Maximilian Warner questioned 887(2)(b) Allegation F- Abuse of Authority: Police Officer Debbie Jimenez questioned 85(2)(b) Allegation G- Abuse of Authority: Police Officer Debbie Jimenez refused to provide her name outside of 122 East 116th Street in Manhattan Allegation H- Abuse of Authority: Police Officer Debbie Jimenez refused to provide her shield number to \$87(2)(b) outside of 122 East 116th Street in Manhattan Allegation I- Abuse of Authority: Detective Maximilian Warner refused to provide his name to \$87(2)(b) outside of 122 East 116th Street in Manhattan Allegation J- Abuse of Authority: Detective Maximilian Warner refused to provide his shield number to \$87(2)(b) outside of 122 East 116th Street in Manhattan



Pursuant to Section 375 (12-a) of the NYS Vehicle and Traffic Law, no motor vehicle can be operated when composed of, covered by or treated with any material which has a light transmittance of less than seventy percent (BR13).



PO Jimenez stays at the driver's side. PO Jimenez shines her flashlight around the front and back

they are going to search the car. PO Jimenez searches the front seats, console, and door. Det. Warner searches the front seat. She then searches the glove compartment, back seats, and the front passenger seat.

At 1:08 in both PO Delia's BWC (BR8) and PO Jimenez's BWC (BR9), PO Jimenez and PO Delia look into the driver's door compartment and see a baby bottle while asking him if it contains "lean", an illegal drug.

PO Jimenez and PO Delia explained that when street exited the vehicle, PO Jimenez and PO Delia saw a baby bottle with blue liquid, but no other objects associated with having a baby in the car. In PO Jimenez's and PO Delia's experiences, every baby bottle with blue liquid without a baby contains "lean", an illegal drug. This is also an area prone to drugs, so they believed this was "lean". They could not investigate further because they do not carry the tools in the field to verify it was "lean". PO Jimenez wanted to search the car after having consent and probable cause to arrest based on the suspended license. PO Delia then escorted street to the back of the vehicle. PO Delia explained that he believed he obtained sufficient consent to search from street who said it was fine with him for the officers to look for guns. PO Delia was the only officer who obtained alleged consent. PO Delia then relayed it to PO Jimenez and Det. Warner with a handwave or a motion that indicated to the other officers that street gave his consent. PO Delia never informed that the search was voluntary and would not take place if he did not consent because they all testified that once the officers established probable cause, supposedly the suspended license, to search the car, they can search with or without his consent (BR10; BR11).

PO Jimenez and Det. Warner began to search the car after PO Jimenez saw PO Delia give them the wave or hand motion. No one else heard how or if strends gave consent to search. Det. Warner and PO Jimenez only knew that PO Delia had gotten consent to search, but they did not hear that conversation. Det. Warner testified that he did not know why PO Delia and PO Jimenez wanted to search; there was nothing at this point that warranted a search in his opinion. PO Jimenez began to search the front seat and console while strends then told strends to get out of the passenger seat. Det. Warner then searched the passenger seat and found an inoperable taser. PO Jimenez searched the back seats too but found nothing illegal (BR10; BR12).

PO Delia explained that he stated "bullshit" conversationally when he told \$87(2)(b) he was not there for "bullshit" at the back of the car. PO Delia testified that he did not mean it discourteously toward \$87(2)(b) (BR11).

According to the Right to Know Act section § 14-173 entitled "Guidance regarding consent searches," officers need to first obtain voluntary, knowing, and intelligent consent prior to the search of a person, or a person's vehicle, home, or property...when such search is not conducted pursuant to a warrant, any other exception to the warrant requirement under applicable law, or probable cause, or when such search is not incident to a lawful arrest...officers must use plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explaining that such search will not be conducted if such person refuses to provide consent to such search (BR14).

In People v. Woods, 189 A.D.2d 838, 838, in regard to a stop for tinted windows, the court concluded that a search of the vehicle was improper when the officers stopping the vehicle did not indicate that he observed any suspicious actions by the defendant or that he felt threatened in any way. Furthermore...the court noted that a stop for a traffic offense will not justify a search of the

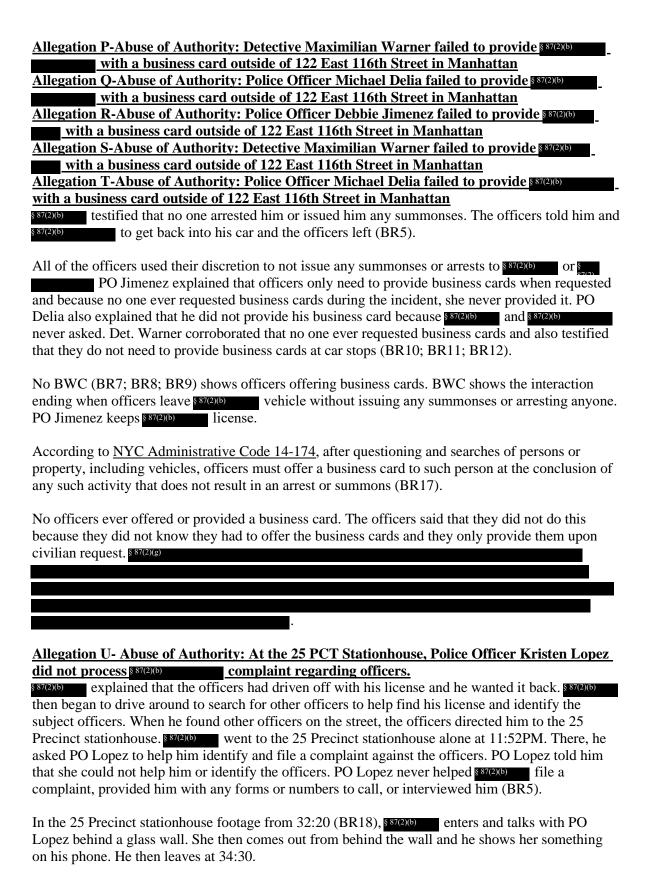
motorist or of the vehicle unless there are reasonable grounds for believing the motorist guilty of a crime, as opposed to a traffic offense or if the officer, acting on reasonable suspicion that criminal activity is afoot, has an articulable basis to fear for his own safety (see, People v Torres, 74 NY2d 224). Even then, the officer may intrude upon the person or personal effects of the motorist only to the extent necessary to protect himself from harm (BR15).

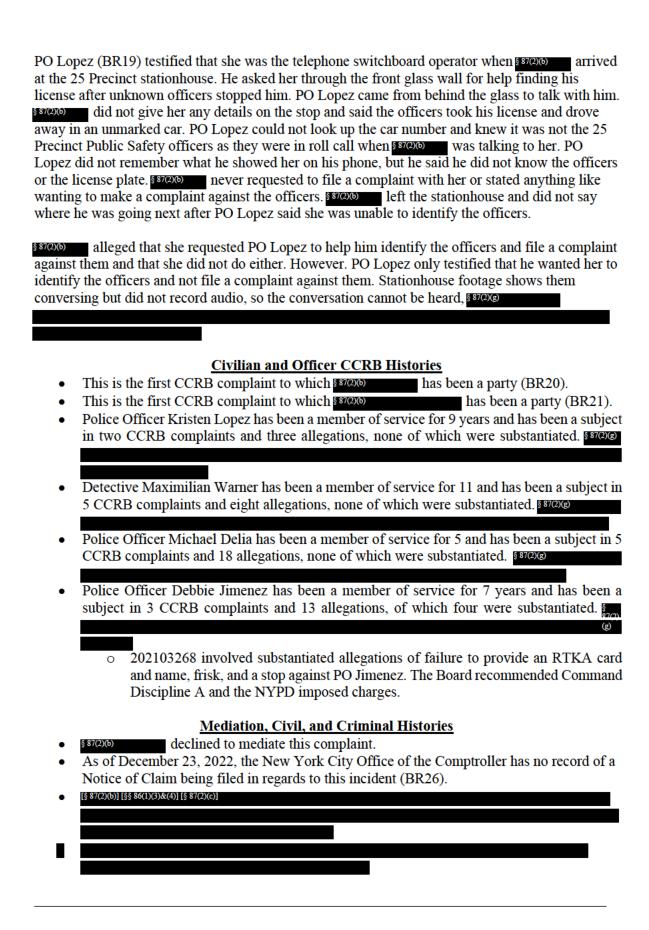
According to NYPD Patrol Guide Procedure 200-02, The Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect (BR16).

People v. Belton, 55 N.Y.2d 49 (1982) states, "Justification for an automobile search contemporaneous with a valid arrest arises... from the circumstances which validate the arrest...a valid arrest for a crime authorizes a warrantless search... when the circumstances give reason to believe that the vehicle or its visible contents may be related to the crime for which the arrest is being made (as possibly containing contraband or as having been used in the commission of the crime)...where police have validly arrested an occupant of an automobile, and they have reason to believe that the car may contain evidence related to the crime for which the occupant was arrested or that a weapon may be discovered or a means of escape thwarted, they may contemporaneously search the passenger compartment" (BR29).

As previously stated, the officers stopped only due to the tints on his windows before learning his license was suspended. The officers conducted a warrantless search the car, testifying that consented to PO Delia's request to search the car. BWC shows telling the officers that they can look at the car or search for guns some
Based on the Right to Know Act, PO Delia needed to have obtained voluntary consent while telling that he could refuse a search before relaying the alleged consent to the other officers. Additionally, the officers' statements and the BWC show that did not act suspicious or threaten the officers in any way, and the search of the vehicle was not incident to lawful arrest.
§ 87(2)(g)
While November and DO Delie were tellring at the healt of the ear, DO Delie teld November that he
While and PO Delia were talking at the back of the car, PO Delia told that he was not there for the "bullshit." The situation was not tense or chaotic. PO Delia explained that he did not use it to be discourteous to \$37(2)(0)

Allegation O-Abuse of Authority: Police Officer Debbie Jimenez failed to provide with a business card outside of 122 East 116th Street in Manhattan





Squad:7			
Investigator:	Lianne May	Investigator Lianne May	January 10, 2024
	Signature	Print Title & Name	Date
Squad Leader:		Manager Vanessa Rosen	
Squau Leauer	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date